

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

X

In Re: Methyl Tertiary Butyl Ether (MTBE)
Productions Liability Litigation

MDL 1358 (SAS)
M21-88

USD
DOCUMENTS
ELECTRONICALLY FILED
DOC #
DATE FILED: REC'D BY CLERK: 3/10/08
100-2077
SUSAN A. SCHER

This document relates to:

*County of Suffolk and Suffolk County Water
Authority v. Amerada Hess Corp., et al., No. 04 CIV 3417.*

Master File No.: 1:00-1898 (SAS)

X

**STIPULATION AND ORDER DISMISSING
CERTAIN CLAIMS AGAINST
GETTY PROPERTIES CORP.**

The undersigned counsel for Plaintiffs County of Suffolk and Suffolk County Water Authority (collectively, "Plaintiffs") and Defendant Getty Properties Corp. ("Getty Properties") hereby agree on behalf of the parties that:

1. Getty Properties withdraws its "Motion for Exculpation and Partial Summary Judgment of Getty Properties Corp.," dated January 11, 2008, and all supporting papers.
2. Plaintiffs voluntarily dismiss without prejudice all claims against Getty Properties arising from contamination in the Kayron Drive No.1A well and the Morris Avenue No. 2 well that might be attributed to the Getty service station located at 913 Portion Road, Ronkonkoma, New York (the "913 Portion Road Station") based on Getty Properties' representation that it did not own, operate, lease or otherwise control the 913 Portion Road Station at any time and upon the representations of defendant Getty Petroleum Marketing, Inc. ("GPMI"), as set forth in the Declaration of Paul Standardi, dated January 25, 2008, and submitted in support of GPMI's Motion For Partial Summary Judgment, that the 913 Portion Road Station became a Getty-branded station in, or about, May 2002, when it received gasoline from GPMI.

3. Plaintiffs expressly reserve all remaining claims alleged in their complaints against Getty Properties, and Getty Properties expressly reserves all defenses asserted in its Master Answer relating thereto.

4. Should Plaintiffs subsequently discover any inaccuracies in Getty Properties' and/or GPMI's representations with respect to the 913 Portion Road Station and/or information that conflicts with the Getty Properties' and/or GPMI's representations with respect to the 913 Portion Road Station, then Defendant Getty Properties consents to allow Plaintiffs to amend their complaint to reinstate the said claims against Getty Properties. Reinstatement will not be a basis for the delay of the current trial date in the Suffolk County focus case. Getty Properties reserves all rights and defenses with respect thereto.

5. Should any of the claims above be reinstated for any reason, then Defendant Getty Properties agrees that the statute of limitations is tolled with respect to said claims between the filing of the *Suffolk County Water Authority* Summons with Notice on November 5, 2004, and the date of such reinstatement.

Dated: *March 5*, 2008

WEITZ & LUXENBERG, P.C.

By:


Robin Greenwald (RG-9205)
William Walsh (WW-3301)
180 Maiden Lane
New York, New York 10038
(212) 558-5500

*Attorneys for Plaintiffs County of Suffolk and
Suffolk County Water Authority*

Dated: February 21, 2008

PATTON BOGGS LLP

BY:

John McGahren (JM3568)
Daniel F. Mulvihill (DM7007)
One Riverfront Plaza, 6th Floor
Newark, New Jersey 07102
(973) 848-5600

Attorneys for Defendant Getty Properties Corp.

Dated: March 7, 2008

SO ORDERED:


U.S.D.J.